IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 738 of 2001

Between:

M/s.Anand Ispat Udyog Ltd., Survey No.85, Timmapur, Kothur Mandal, Mahaboobnagar Dist., rep by its Managing Director, Pramodkumar Aggarwal.

..... PETITIONER

AND

1. The Trasmission Corpn. of A.P. Ltd., (A.P.TRANSCO) rep by its MD, Vidyut Soudha, Khairatabad, Hyd.
2. The superintending Engineer Operation, Central Power Distribution, Company of AP Ltd.,(A.P.TRANSCO), Mahaboobnagar, Mahaboobnagar Dist.
3. The Senior Accounts Officer, Operation, Central Power Distribution, Company of AP Ltd., (A.P.TRANSCO),Mahaboobnagar, Mahaboobnagar Dist.
4. The A.P. Pollution Control Board, rep by its Member Secretary, 2nd Floor, Huda Complex, Mythrivanam, S.R.Nagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 to 3 in not revising the bill for the month of December, 2000 by proportionately charging the maximum demand charges for 6 days ignoring the period under which the petitioner's power supply is disconnected under the orders of the 4th respondent as highly illegal, arbitrary, unjust and void and consequently set aside the proceedings of the 2nd respondent in Lr.No.SE/OP/MBNR/SAO/HT/D,No.10/01 dt.5-1-2001.

Counsel for the Petitioner: Mr.D.V.NAGARJUNA BABU

Counsel for the Respondents 1 to 3: Smt. M.Vinobha Devi

SC for A.P.TRANSCO

Counsel for Respondent No.4: Mr.S.V.Bhatt

SC for AP Pollution Control Board.

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

Petitioner is questioning the action of the respondents in calling upon the petitioner to pay the bill amount for the month of December, 2000. In the communication dated: 5.1.2001, it is stated that the petitioner was bound by the terms of agreement entered into with the respondent-Company and under Clause 2.12, petitioner was bound to pay the maximum demand. The objection of the petitioner that a sum of Rs.3,70,872-00 towards maximum demand charges was billed excessively, was turned down by the Superintending Engineer under the threat of disconnection. The petitioner questioned the action of the respondents on the ground that HT supply was discontinued for the period from 29.11.2000 to 24.12.2000 on account of the order passed by the Andhra Pradesh Pollutiion Control Board, and, it was not voluntary on the part of the petitioner, but, on account of the order passed by the A.P. Pollution Control Board, over which, petitioner has no control and it being involuntary on the part of the petitioner, such an order ought not have been passed.

There was interim order operating in this case that there shall be stay of disconnection on condition of the petitioner paying a sum of Rs.5,60,000/- (Rupees five lakhs sixty thousand only).

We have heard the learned counsel for parties.

Reliance placed on the decision of the Supreme Court in **N.I.I. & S.Co. v. State of Haryana** is misconceived inasmuch as there was clause 4 in the relevant rules therein for proportionate reduction of demand charges in certain eventualities. There is no similar clause in between the petitioner and the respondent-Company. Respondents' case is that power supply had to be disconnected because of the order of the Andhra Pradesh Pollution Control Board. Since the disconnection was not on account of any action of the petitioner, the matter deserves to be examined by the respondents sympathetically taking note of the facts and circumstances. Accordingly, we dispose of the Writ Petition with direction that petitioner's case should be examined by the first respondent in the facts and circumstances of the case narrated by him in the Writ Petition that not because of his acts, but, because of the orders passed by the A.P. Pollution Control Board, there was disconnection and lesser charges have to be levied, due to which, it was entitled to some deduction in the charges levied. The respondents shall treat the writ petition as representation of the petitioner and pass appropriate orders within a period of two months from the date of the receipt of a copy of this order. Till such time, pursuant to the demand, no action will be taken by the respondents. No costs.

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DEVINDER GUPTA, C.J.

30.9.2004.

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C.V.RAMULU, J.

VR.

To

1. The Managing Director Transmission Corpn. of A.P. Ltd.,(APTRANSCO), Vidyut Soudha, Khairatabad, Hyderabad.
2. The superintending Engineer Operation, Central Power Distribution, Company of AP Ltd., (APTRANSCO), Mahaboobnagar, Mahaboobnagar Dist.
3. The Senior Accounts Officer, Operation, Central Power Distribution, Company of AP Ltd., (APTRANSCO), Mahaboobnagar, Mahaboobnagar Dist.
4. The Member Secretary, A.P. Pollution Control Board, 2nd Floor, Huda Complex, Mythrivanam, S.R.Nagar, Hyderabad.

5. Two CD copies.